

# PATENT COOPERATION TREATY

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From the  
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

## PCT

To:

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29 SET. 2004

### NOTIFICATION OF TRANSMITTAL OF THE INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Rule 71.1)

Date of mailing  
(day/month/year) 28.09.2004

Applicant's or agent's file reference  
Cal 87150

### IMPORTANT NOTIFICATION

International application No.  
PCT/EP 03/13027

International filing date (day/month/year)  
20.11.2003

Priority date (day/month/year)  
12.12.2002

Applicant  
POLIMERI EUROPA S.P.A.

1. The applicant is hereby notified that this International Preliminary Examining Authority transmits herewith the international preliminary examination report and its annexes, if any, established on the international application.
2. A copy of the report and its annexes, if any, is being transmitted to the International Bureau for communication to all the elected Offices.
3. Where required by any of the elected Offices, the International Bureau will prepare an English translation of the report (but not of any annexes) and will transmit such translation to those Offices.
4. **REMINDER**

The applicant must enter the national phase before each elected Office by performing certain acts (filing translations and paying national fees) within 30 months from the priority date (or later in some Offices) (Article 39(1)) (see also the reminder sent by the International Bureau with Form PCT/IB/301).

Where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary examination report. It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned.

For further details on the applicable time limits and requirements of the elected Offices, see Volume II of the PCT Applicant's Guide.

The applicant's attention is drawn to Article 33(5), which provides that the criteria of novelty, inventive step and industrial applicability described in Article 33(2) to (4) merely serve the purposes of international preliminary examination and that "any Contracting State may apply additional or different criteria for the purposes of deciding whether, in that State, the claimed inventions is patentable or not" (see also Article 27(5)). Such additional criteria may relate, for example, to exemptions from patentability, requirements for enabling disclosure, clarity and support for the claims.

Name and mailing address of the international  
preliminary examining authority:



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REC'D 28 SEP 2004

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT PCT (PCT Article 36 and Rule 70)

Applicant's or agent's file reference Cal 87150	<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)	
International application No. PCT/EP 03/13027	International filing date (day/month/year) 20.11.2003	Priority date (day/month/year) 12.12.2002
International Patent Classification (IPC) or both national classification and IPC C07D317/36		
Applicant POLIMERI EUROPA S.P.A.		

- This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
- This REPORT consists of a total of 5 sheets, including this cover sheet.  
  
☐ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).  
  
 These annexes consist of a total of sheets.

- This report contains indications relating to the following items:
  - I ☒ Basis of the opinion
  - II ☐ Priority
  - III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
  - IV ☐ Lack of unity of invention
  - V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
  - VI ☐ Certain documents cited
  - VII ☐ Certain defects in the international application
  - VIII ☐ Certain observations on the international application

Date of submission of the demand  05.07.2004	Date of completion of this report  28.09.2004
Name and mailing address of the international preliminary examining authority:   European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	Authorized Officer  Deurinck, P  Telephone No. +31 70 340-2404  

**INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT**

International application No. **PCT/EP 03/13027**

**I. Basis of the report**

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

**Description, Pages**

1-16 as originally filed

**Claims, Numbers**

1-11 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).  
☐ the language of publication of the international application (under Rule 48.3(b)).  
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.  
☐ filed together with the international application in computer readable form.  
☐ furnished subsequently to this Authority in written form.  
☐ furnished subsequently to this Authority in computer readable form.  
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.  
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:  
☐ the claims, Nos.:  
☐ the drawings, sheets:

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

*(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)*

6. Additional observations, if necessary:

**INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT**

International application No. **PCT/EP 03/13027**

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**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;  
citations and explanations supporting such statement**

**1. Statement**

Novelty (N)	Yes: Claims	1-11
	No: Claims	
Inventive step (IS)	Yes: Claims	1-11
	No: Claims	
Industrial applicability (IA)	Yes: Claims	1-11
	No: Claims	

**2. Citations and explanations**

**see separate sheet**

## AD V:

D1: WP 93/09111  
D2: EP 1 126 011

### 1. Novelty (Art. 33(2) PCT)

#### 1.1

The present application meets the requirements of Article 33 PCT, because the subject-matter of independent **Claims 1, 5, 6 and 8** is new.

None of the prior art documents discloses the use of a mixture comprising one or more alkyl esters of fatty acids and one or more esters of fatty acids of glycerol carbonate as a fuel or solvent

#### 1.2

The present application meets the requirements of Article 33 PCT, because the subject-matter of independent **Claim 9** is new.

None of the prior art documents discloses a process for preparing the mixture of acids as disclosed in Claim 9.

#### 1.3

**Claims 2-4, 7, 10 and 11** are dependent on Claims 1 or 9 and as such also meet the requirements of the PCT with respect to novelty.

### 2. Inventive step (Art. 33(3) PCT)

#### 2.1

The present application meets the requirements of Article 33 PCT, because the subject-matter of independent **Claims 1, 5, 6 and 8** involves an inventive step in the sense of Article 33(3) PCT.

*Document D2*, which is considered to represent the most relevant state of the art,

discloses the use of one or more alkyl esters of fatty acids as a fuel.

The subject-matter of Claims 1, 5, 6 and 8 differs from D1 in that the mixture also comprises one or more esters of fatty acids of glycerol carbonate (*distinguishing feature*).

*The technical effect* that is achieved with this distinguishing feature is to lower the co-production of glycerol (page 2, lines 15-23).

The *problem to be solved* by the present invention may be regarded as: "To use a fuel with a reduced glycerol content".

Starting from the disclosure of D2 and intending to solve the above mentioned problem, a person skilled in the art had no incentive from the state of the art, to use a mixture of one or more alkyl esters of fatty acids and one or more esters of fatty acids of glycerol carbonate as a fuel or solvent.

Thus the subject-matter of independent Claims 1, 5, 6 and 8 involves an inventive step.

## 2.2

The present application meets the requirements of Article 33 PCT, because the subject-matter of independent **Claim 9** involves an inventive step in the sense of Article 33(3) PCT.

*Document D1*, which is considered to represent the most relevant state of the art, disclose a similar process.

The only difference is that in D1, the separation step provides the glycerol carbonate ester as only product while in the process according to the invention a mixture of glycerol carbonate ester and one or more esters of fatty acids is obtained (*distinguishing feature*).

There is in D1 *no incentive* to prepare a composition comprising a mixture of glycerol carbonate ester and one or more esters of fatty acids which can be used as a fuel or as a solvent.

Thus the subject-matter of independent Claim 9 involves an inventive step.

## 2.3

**Claims 2-4, 7, 10 and 11** are dependent on Claims 1 or 9 and as such also meet the requirements of the PCT with respect to inventive step.